

### REMARKS

Claims 16-19 are pending in the application. Claim 19 has been amended by the present response. Support for the amendment can be found in the specification at, e.g., page 40, lines 22-26. No new matter has been added.

#### Objection to the Specification

At pages 2-3 of the Office Action, the specification was objected to for its use of the terms "Procline 150" and "Procline 300." The specification has been amended to use the trademark terms "ProClin® 150" and "ProClin® 300." Applicants request that the Examiner withdraw the objection in view of the amendment.

#### Claim Objections

At page 3 of the Office Action, claim 19 was objected to for its use of the term "procline." Claim 19 has been amended to use the trademark terms "ProClin® 150" and "ProClin® 300." Applicants request that the Examiner withdraw the rejection in view of the amendment.

#### 35 U.S.C. § 112, First Paragraph (Written Description)

At page 4 of the Office Action, claim 19 was rejected as allegedly introducing new matter in its recitation of the term "procline." Claim 19 has been amended to delete the term "procline" and insert the trademark terms "ProClin® 150" and "ProClin® 300." Applicants request that the Examiner withdraw the rejection in view of the amendment.

#### 35 U.S.C. § 102(b) (Anticipation)

At pages 5-6 of the Office Action, claims 16-18 were rejected as anticipated by Wilkison et al. (*J. Biol. Chem.* (1991) 266:16886-16891; "Wilkison") as evidenced by Bradshaw et al. (*TIBS* (1998) 23:263-67; "Bradshaw"). According to the Office Action, "[t]he glycerol kinase by Wilkison et al. would have inherently the same amino acid sequence compared to the

instant SEQ ID NO: 1, because the glycerol kinase from Cellunomonas sp. Nt3060 glycerol kinase (known as gi:119389098) and SEQ ID NO: 1 is identical except the N-terminal Met.”

Applicants respectfully traverse the rejection in view of the following remarks.

Claims 16-18 require that the claimed protein (i) consist of the amino acid sequence of SEQ ID NO:1 (claim 16), or (ii) comprise the amino acid sequence of SEQ ID NO:1 (claims 17 and 18). The claims thus require that the claimed proteins contain, at a minimum, the exact sequence of SEQ ID NO:1.

Contrary to the assertions reproduced above from the Office Action, the Cellunomonas sp. Nt3060 glycerol kinase reference sequence used by the Office Action in the alignment with SEQ ID NO:1 is not identical to SEQ ID NO:1 in every respect other than the N-terminal methionine. In particular, SEQ ID NO:1 has an asparagine (N) at position 21, whereas the Cellunomonas sp. Nt3060 glycerol kinase reference sequence has an aspartic acid (D) at the corresponding position (see alignment attached to Office Action). Anticipation requires that each and every element of the claim be found in a single prior art reference. MPEP § 2131. Anticipation is clearly not possible where the alleged prior art protein does not contain the same amino acid sequence as SEQ ID NO:1. As a result, the issue of the presence or absence of an N-terminal methionine (for which Bradshaw was cited as “evidence”) need not even be considered to determine conclusively that the Cellunomonas sp. Nt3060 glycerol kinase sequence cited in the Office Action differs at position 21 of SEQ ID NO:1 and therefore cannot anticipate the claimed proteins.

In view of the foregoing remarks, applicants respectfully submit that Wilkison does not anticipate claims 16-18. Applicants request that the Examiner withdraw the rejection.

### 35 U.S.C. § 103(a) (Obviousness)

At pages 7-8 of the Office Action, claims 16-19 were rejected as unpatentable over Wilkison as evidenced by Bradshaw in view of Cocker et al. (WO 95/01292; “Cocker”) and in view of Proclin® 300 Preservative (Sigma-Aldrich, 1999).

Applicants respectfully traverse the rejection in view of the following remarks.

The Office Action cited Cocker as disclosing the use of preservatives for enzyme solutions and Sigma-Aldrich as disclosing the use of Proclin® 300 for the control of microorganisms.

As detailed above in response to the anticipation rejection (and as was clearly established by the sequence alignment contained in the Office Action), Wilkison does not disclose a protein that contains SEQ ID NO:1 and therefore does not anticipate independent claims 16-18. Cocker and Sigma-Aldrich provide nothing that supplements the deficiencies of Wilkison with respect to the non-disclosure of SEQ ID NO:1. Because the combination of the cited references would not have led the person of ordinary skill in the art at the time the present application was filed to prepare a protein containing the sequence of SEQ ID NO:1, the references do not render obvious the subject matter of claims 16-19. Applicants request that the Examiner withdraw the rejection.

#### CONCLUSION

Applicants submit that all grounds for rejection have been overcome and that all of the pending claims are now in condition for allowance, which action is requested.

The fee for the Petition for a One-Month Extension of Time is being paid concurrently herewith by way of Deposit Account authorization. Please apply all other charges, as well as any credits, to deposit account 06-1050, referencing Attorney Docket No: 18965-002US1.

Respectfully submitted,

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